



EXHIBIT 12-B

FILED

MAR 25 2004

**MONTEREY PENINSULA  
WATER MANAGEMENT DISTRICT**

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STEPHEN L. VAGNINI  
MONTEREY COUNTY CLERK  
DEPUTY

**NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION  
AND  
PROPOSED NEGATIVE DECLARATION  
For MPWMD Board review on April 19, 2004**

- 1. PROJECT TITLE:** Adoption of Ordinance No. 115, "MPWMD 2004 Water Use Credit Clarification Ordinance."
- 2. DESCRIPTION AND LOCATION OF PROJECT:** Proposed Ordinance No. 115 (Attachment 3) would clarify the reuse of Water Use Credits on a Site and would relocate existing provisions of the District's Rules and Regulations related to cancellation of permits from multiple rules to one rule. This ordinance would also establish processing fees for documentation of Water Use Credits.  
  
Ordinance No. 115 applies within the boundaries of the Monterey Peninsula Water Management District (MPWMD), including the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, portions of Monterey County (primarily Carmel Valley, Pebble Beach and the Highway 68 corridor), and the Monterey Peninsula Airport District. Each of these jurisdictions regulates land use within its individual boundaries and is responsible for CEQA review of individual projects that are proposed. The District does not regulate land use.
- 3. REVIEW PERIOD:** The Review Period is March 26, 2004 through April 14, 2004. CEQA allows a 20-day comment period for issues of local importance.
- 4. PUBLIC MEETINGS:** The first reading of Ordinance No. 115 will be considered at the MPWMD Board meeting of April 19, 2004. The second reading and adoption of the Ordinance and Negative Declaration is scheduled for public hearing on May 17, 2004 at 7:00 PM at the Monterey City Council Chambers, City Hall (Corner of Pacific and Madison Street), Monterey, California.
- 5. LOCATION OF DOCUMENTS:** The proposed Negative Declaration and Initial Study, including supporting documentation and the administrative record upon which the Negative Declaration and Initial Study are based, and copies of proposed Ordinance No. 115, are available for review at the Monterey Peninsula Water Management District office located at 5 Harris Court, Bldg. G, Monterey, CA 93940 (Ryan Ranch). **The staff contact is Stephanie Pintar at 831/658-5601.**

**6. PROPOSED FINDING SUPPORTING NEGATIVE DECLARATION:** Based on the Initial Study and the analysis, documents and record supporting the Initial Study, the Monterey Peninsula Water Management District Board of Directors finds that adoption of Ordinance No. 115 does not have a significant effect on the environment.

### **PROPOSED NEGATIVE DECLARATION**

Based on the finding that adoption of Ordinance No. 115, Clarifying Water Use Credit Rules, Cancellation Of Permits Rules, And Setting Fees For Water Use Credit Documentation, has no significant effect on the environment, the Monterey Peninsula Water Management District makes this Negative Declaration regarding MPWMD Ordinance No. 115 under the California Environmental Quality Act.

**CEQA GUIDELINES APPENDIX G  
MPWMD ENVIRONMENTAL CHECKLIST FOR ORDINANCE NO. 115**

**PROJECT INFORMATION**

- |            |   |  |
|------------|---|--|
| <b>1.</b>  | <b>Project Title:</b>   | Adoption of Ordinance No. 115: "MPWMD 2004 Water Use Credit Clarification Ordinance"   |
| <b>2.</b>  | <b>Lead Agency Name and Address:</b>  | Monterey Peninsula Water Management District, PO Box 85, Monterey, CA 93942-0085 [Street address: 5 Harris Court, Bldg. G, Monterey, CA 93940] |
| <b>3.</b>  | <b>Contact Person and Phone:</b>  | Stephanie Pintar, 831/658-5630   |
| <b>4.</b>  | <b>Project Location:</b>  | District-wide, see <u>Attachment 1</u> , map   |
| <b>5.</b>  | <b>Project Sponsor's Name/Address:</b>  | MPWMD, see #2 above  |
| <b>6.</b>  | <b>General Plan Designation:</b>  | Varies throughout District   |
| <b>7.</b>  | <b>Zoning:</b>  | Varies throughout District   |
| <b>8.</b>  | <b>Description of Project:</b> Proposed Ordinance No. 115 ( <u>Attachment 3</u> ) would clarify the reuse of Water Use Credits on a Site and would relocate existing provisions of the District's Rules and Regulations related to cancellation of permits from multiple rules to one rule. This ordinance would also establish processing fees for documentation of Water Use Credits.   |  |
| <b>9.</b>  | <p><b>Surrounding Land Uses and Setting:</b> Land uses within the District range from urban and suburban residential and commercial areas to open space/wilderness. The District encompasses the cities of Carmel-by-the-Sea, Del Rey Oaks, Monterey, Pacific Grove, Sand City, Seaside, portions of Monterey County (primarily Carmel Valley, Pebble Beach and the Highway 68 corridor), and the Monterey Peninsula Airport District (<u>Attachment 1</u>). Each of these jurisdictions regulates land uses within its boundaries. The District does not regulate land uses.</p> <p>The Monterey Peninsula is dependent on local sources of water supply, which (directly or indirectly) are dependent on local rainfall and runoff. The primary sources of supply include surface and groundwater in the Carmel River basin, and groundwater in the Seaside Basin (<u>Attachment 2</u>).</p> <p>Vegetation communities on the Monterey Peninsula include marine, estuarine, and riverine habitats; fresh emergent and saline emergent (coastal salt marsh) wetland communities; riparian communities, particularly along the Carmel River; a wetland community at the Carmel River lagoon; and upland vegetation communities such as coastal scrub, mixed chaparral, mixed hardwood forest, valley oak woodland, and annual grassland. These communities provide habitat for a diverse group of wildlife. The Carmel River supports various fish resources, including federally threatened steelhead fish and California red-legged frog.</p> |  |
| <b>10:</b> | <b>Other public agencies whose approval is required:</b> None   |  |

**ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> Aesthetics             | <input type="checkbox"/> Hazards and Hazardous Materials | <input type="checkbox"/> Public Services                    |
| <input type="checkbox"/> Agricultural Resources | <input type="checkbox"/> Hydrology and Water Quality     | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Air Quality            | <input type="checkbox"/> Land Use and Planning           | <input type="checkbox"/> Transportation/Traffic             |
| <input type="checkbox"/> Biological Resources   | <input type="checkbox"/> Mineral Resources               | <input type="checkbox"/> Utilities & Service Systems        |
| <input type="checkbox"/> Cultural Resources     | <input type="checkbox"/> Noise                           |   |
| <input type="checkbox"/> Geology/Soils          | <input type="checkbox"/> Population and Housing          | <input type="checkbox"/> Mandatory Findings of Significance |

**DETERMINATION** (To be completed by the Lead Agency)

I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.

I find that although the proposed project **COULD** have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **MITIGATED NEGATIVE DECLARATION** will be prepared.

I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

I find that the proposed project **MAY** have a significant effect(s) on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets, if the effect is a "potentially significant impact" or is "potentially significant unless mitigated." An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, there **WILL NOT** be a significant effect in this case because all potentially significant effects:

- 1) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards; and
- 2) have been avoided or mitigated pursuant to an earlier EIR or **NEGATIVE DECLARATION**, including revisions or mitigation measures that are imposed upon the

proposed project.

The earlier EIR adequately analyzes the proposed project, so **NO ADDITIONAL ENVIRONMENTAL IMPACT REPORT or NEGATIVE DECLARATION** will be prepared.

Signature:

*Rick L. DiStasio*

Date:

*3/25/04*

Printed Name: *fa*  
Fran Farina

Title: MPWMD General Manager

## EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
2. All answers must take account of the entire action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
3. Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
4. "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less-than-significant level (mitigation measures from Section XVIII, EARLIER ANALYSES, may be cross-referenced).
5. The explanation of each issue should identify:
  - a. The significance threshold, if any, used to evaluate each question; and
  - b. The mitigation measure identified, if any, to reduce the impact to less than significant
6. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or Negative Declaration [Section 15063(c)(3)(D)]. In this case, a brief discussion should identify the following:
  - a. **Earlier Analysis used.** Identify and state where they are available for review.
  - b. **Impacts Adequately Addressed.** Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analyses.
  - c. **Mitigation Measures.** For effects that are "Less Than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
7. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated. A source list should be attached, and other sources used, or individuals contacted, should be cited in the discussion.
8. This checklist has been adapted from the form in Appendix G of the State CEQA Guidelines, as amended effective October 26, 1998 (from website).
9. Information sources cited in the checklist and the references used in support of this evaluation are listed in attachments to this document.

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<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
<b>I. AESTHETICS. Would the project:</b>					
a)	Affect a scenic vista or scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Have a demonstrable negative aesthetic effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Create adverse light or glare effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>II. AGRICULTURAL RESOURCES. Would the project:</b>					
a)	Convert Prime Farmland, Unique Farmland, or Farmland of statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<p>Note: In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agricultural and farmland.</p>					
<b>III. AIR QUALITY. Would the project:</b>					
a)	Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**ENVIRONMENTAL ISSUES**

*(See attachments for discussion and information sources)*

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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Note: Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the above determinations.

**IV. BIOLOGICAL RESOURCES. Would the project:**

a)	Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, regulations, or by the California Department of Fish & Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish & Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Have a substantial adverse effect on federally protected wetlands defined by Section 404 of the Clean Water Act, including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Conflict with any local policies or ordinances protecting biological resources, such as tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**V. CULTURAL RESOURCES. Would the proposal:**

a)	Cause substantial adverse change in the significance of a historical resource as defined in Sec. 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Cause substantial adverse change in the significance of an archaeological resource pursuant to Sec. 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources).</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c)	Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VI. GEOLOGIC AND SOILS. Would the project:</b>					
a)	Expose people or structures to potential substantial adverse effects, including risk of loss, injury or death involving:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i)	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii)	Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii)	Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv)	Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in substantial soil erosion or loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on-or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:</b>					
a)	Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accidental conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h)	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>VIII. HYDROLOGY AND WATER QUALITY</b> Would the project:					
a)	Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		<b>Potentially Significant Impact</b>	<b>Less Than Significant with Mitigation Incorporated</b>	<b>Less Than Significant Impact</b>	<b>No Impact</b>
	not support existing land uses or planned uses for which permits have been granted?				
c)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on-or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Create or contribute runoff water which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h)	Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i)	Expose people or structures to a property to a significant risk of loss, injury or death involving flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j)	Inundation by seiche, tsunami or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>IX. LAND USE AND PLANNING. Would the project:</b>					
a)	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c)	Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>X. MINERAL RESOURCES.</b> Would the project:					
a)	Result in the loss of availability of a known mineral resource that would be of value to the region and residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XI. NOISE.</b> Would the project result in:					
a)	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XII. POPULATION AND HOUSING.</b> Would the project:					
a)	Induce substantial growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b)	Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XIII. PUBLIC SERVICES</b> Would the project result in:					
a)	Substantial adverse physical impacts associated with the provision of new or physically altered government facilities, the construction of which would cause significant environmental impacts, in order to maintain acceptable service rations, response times or other performance objectives for any of the following public services:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	i) Fire Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	ii) Police Protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	iii) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	iv) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	v) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XIV. RECREATION</b> Would the project:					
a)	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XV. TRANSPORTATION/TRAFFIC</b> Would the project:					
a)	Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
capacity ratio on roads, or congestion at intersections)?					
b)	Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads and highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Result in a change to air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Conflict with adopted policies, plans or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:</b>					
a)	Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Require or result in construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Require or result in construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Result in a determination by the wastewater treatment provider which serves or may serve the project that it has an adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>		Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
f)	Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Comply with federal, state and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE**

a)	Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**XVIII. EARLIER ANALYSES**

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration [State CEQA guidelines Section 15063(c)(3)(D)]. In this case a discussion should identify the following on attached sheets.

a) **Earlier analyses used.** *Identify earlier analyses and state where they are available for review.*

None. District Rule 25.5 was adopted with Ordinance No. 60 on August 1, 1992.

b) **Impacts adequately addressed.** *Identify which effects from the above checklist were within the scope of, and adequately analyzed in, an earlier document pursuant to*

<b>ENVIRONMENTAL ISSUES</b> <i>(See attachments for discussion and information sources)</i>	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
<i>applicable legal standards. Also, state whether such effects were addressed by mitigation measures based on the earlier analysis.</i>				
Not applicable.				
c) <b>Mitigation measures.</b> <i>For effects that are checked as "Potentially Significant Unless Mitigation Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.</i>				
Not applicable.				
Authority: Public Resources Code Sections 21083 and 21087. Reference: Public Resources Code Sections 21080(c), 21080.1, 21080.3, 21082.1, 21083, 31083.3, 21093, 21094, 21151; <i>Sundstrom v. County of Mendocino</i> , 202 Cal. App. 3d 296 (1988); <i>Leonoff v. Monterey Board of Supervisors</i> , 222 Cal. App. 3d 1337 (1990).				

## DISCUSSION OF CHECKLIST ITEMS:

For all categories, "No Impact" was checked.

Proposed Ordinance No. 115 clarifies MPWMD Rules 25.5 Water Use Credits, to make the process more understandable to agency staff and the public. This ordinance clarifies the existing Rules and Regulations. There is no substantial evidence to show that the clarifications brought about by this ordinance have any measurable effects on the environment.

Ordinance No. 115 Sections One and Two provide the short title and purpose, and have no effect on the environment. Section Three deletes Rule 23-C (7). This text is reinserted in the Rules as Rule 25-D. Section Four deletes Rule 27 in its entirety. Section Five clarifies Rule 25.5 in the following ways:

- The Rule is broken into subparts.
- Subpart A-1 adds a heading and language that transfers are not allowed "pursuant to this Rule";
- Subpart A-2 adds the same language as Subpart A-1;
- Subpart B clarifies the existing process for documenting a Water Use Credit;
- Subpart C clarifies the process for verifying the validity of a Water Use Credit;
- Subpart D clarifies the use of a Water Use Credit and its positive correlation to the Water Use Factors at the time the Water Use Credit is used to offset an expansion of use;
- Subpart E contains no text changes;
- Subpart F clarifies the process for documenting a Water Use Credit when a building straddled a lot line;
- Subpart G-1 clarifies that Water Use Credits may be moved between structures on a Site;



- Subpart G-2 clarifies that a Site must have been under current ownership for a minimum of 24 months to use a Water Use Credit to create a New Connection;

The changes in Section Five have no impact on the environment. Section Six clarifies Rule 25, Cancellation of Permits, in the following ways:

- Subpart A contains no text changes;
- Subpart B clarifies that a water permit utilizing a Water Use Credit expires twenty-four (24) months following issuance. The applicant may then reapply for a water permit;
- Subpart C contains the former text of Rule 27;
- Subpart D contains the former text of Rule 23-C (7);
- Subpart E contains the former text of Rule 23-C (7);
- Subpart F clarifies the refund process for connection charges paid for permits subject to cancellation under this Section.

The changes in Section Six have no impact on the environment. Section Seven amends Rule 60, Permit Fees in the following ways:

- Subpart A quotes the purpose of Rule 60, which is to set forth non-refundable administrative processing fees;
- Subpart B relocates the text of Rule 60-I to Rule 60-G;
- Subpart C adds administrative processing fees for applications to document Water Use Credits.

Section Seven has no impact on the environment. Section Eight, Nine and Ten contain standard legal language for any ordinance. These sections have no impact on the environment. Adoption of Ordinance No. 115 itself has no measurable impact on the environment.

There are valid arguments that Ordinance No. 115 does not constitute a "project" under CEQA. Nonetheless, the District has elected to treat adoption of Ordinance No. 115 as a project and to prepare an Initial Study/Negative Declaration. Prior to completion of this Initial Study and Negative Declaration, the MPWMD Water Demand Committee reviewed Ordinance No. 115 on March 9, 2004.

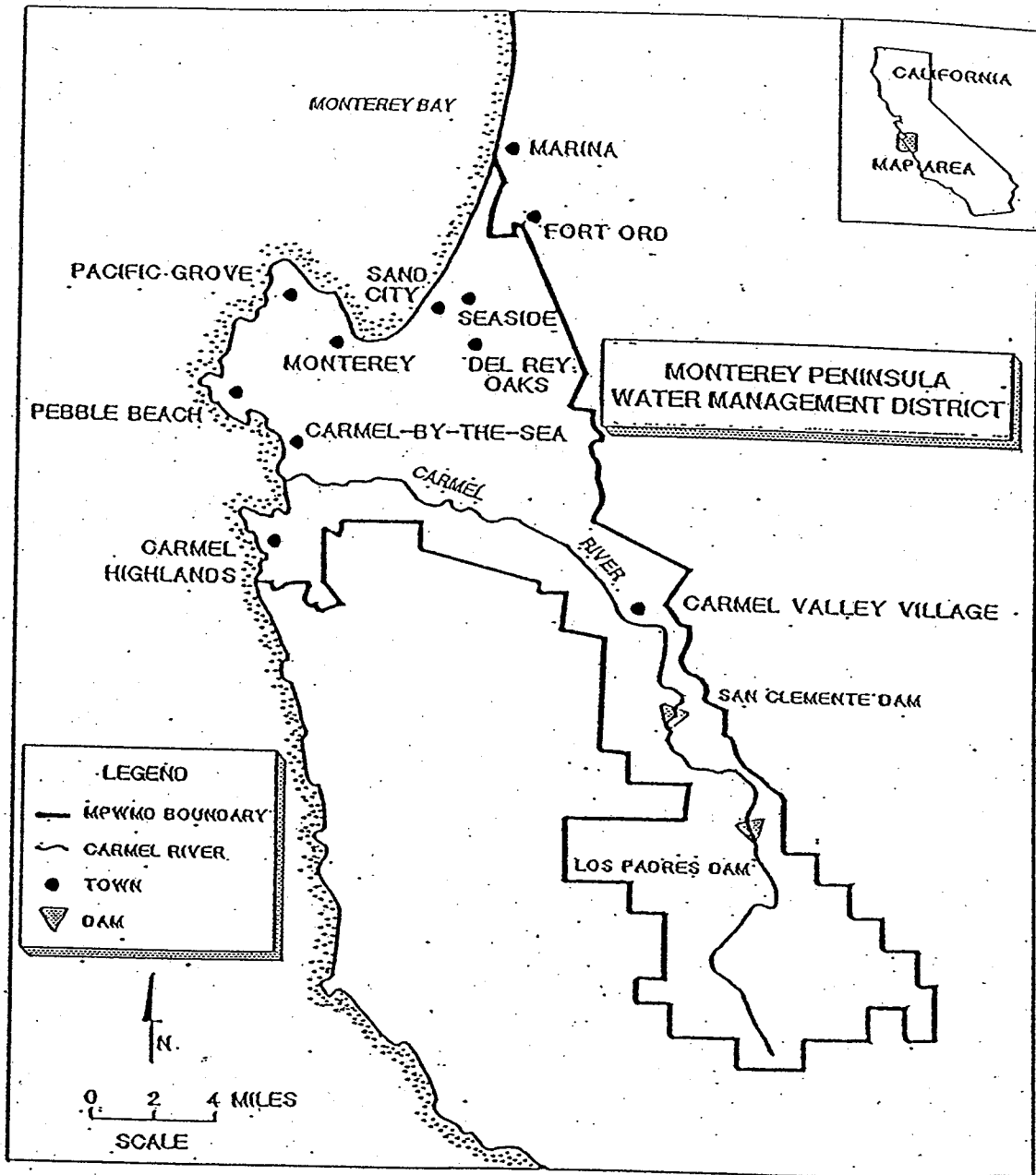
Based on the Initial Study, there are strong arguments that adoption of Ordinance No. 115 is exempt from further CEQA review under the "common sense" exemption. (CEQA Guidelines 15061(b)(3).) This exemption recognizes the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

Based on this Initial Study, the MPWMD believes that adoption of Ordinance No. 115 would have no actual or potential significant adverse environmental impacts; in fact, the ordinance could result in beneficial effects due to more consistent implementation of District Rules and Regulations.

Furthermore, the MPWMD determines that there is an absence of substantial evidence from which a fair argument can be made that adoption of Ordinance No. 115 has measurable and meaningful actual or potential adverse environmental consequences. The MPWMD is aware that CEQA requires preparation of a Negative Declaration if there is no substantial evidence to support a fair argument that the project may cause a significant effect on the environment pursuant to CEQA Guidelines 15063(b)(2). For these reasons, the MPWMD intends to adopt a Negative Declaration regarding adoption of Ordinance No. 115.

Ordinance No. 115, as well as supporting materials and documents, may be reviewed at the MPWMD offices, at the address and phone number listed above. These materials include (a) MPWMD Rules and Regulations and (b) Board agenda information supporting development of concepts for Ordinance No. 115 ("Board packets"). Initial Study conclusions are also based on District staffs' professional assessments, knowledge and experiences, based on data on file at the District office. Public testimony and informal contact with members of the public and various state and local agency representatives also contribute to and support the Initial Study conclusions.

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3/25/2004 9:31 AM S.Pintar 12 pp



Attachment 1

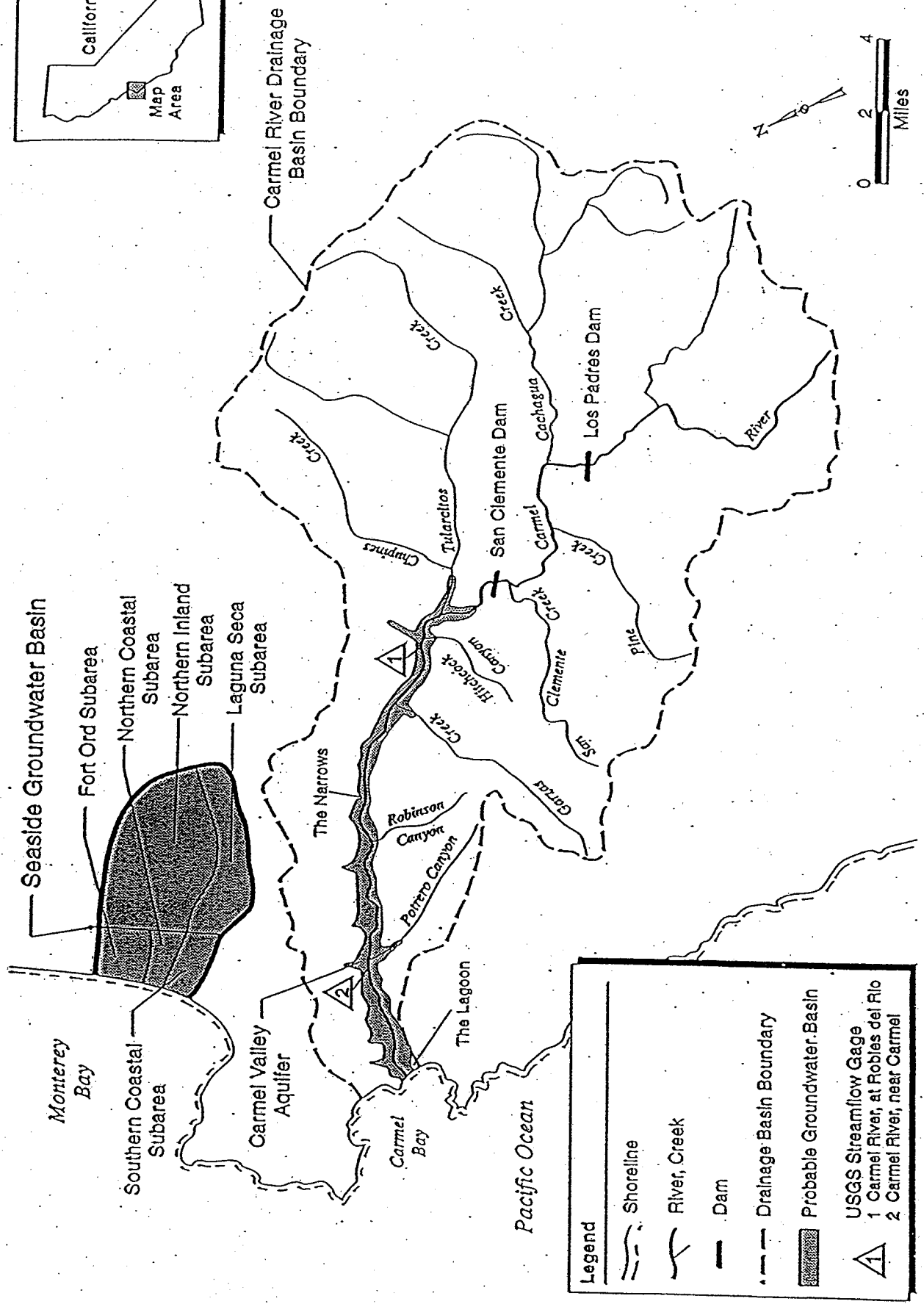
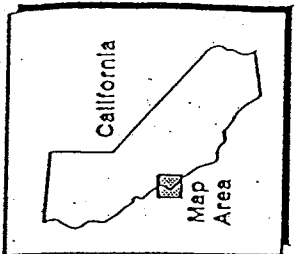


Figure C-1  
Carmel River and Tributaries

Source: MPWMD 1994a.



Jones & Stokes Associates, Inc.

**PRELIMINARY DRAFT  
ORDINANCE NO. 115**

**AN ORDINANCE OF THE BOARD OF DIRECTORS  
OF THE  
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
CLARIFYING WATER USE CREDIT RULES, CANCELLATION OF PERMITS  
RULES, AND SETTING FEES FOR WATER USE CREDIT DOCUMENTATION**

**FINDINGS**

1. The Water Management District is charged under the Monterey Peninsula Water Management District Law with the integrated management of the ground and surface water resources in the Monterey Peninsula area.
2. The Water Management District has general and specific power to cause and implement water conservation activities as set forth in Sections 325 and 328 of the Monterey Peninsula Water Management District Law.
3. This ordinance revises Rule 25.5 to clarify the reuse of water on a single Site.
4. This ordinance clarifies when exterior Water Use Credit is available on a vacant lot or lot occupied by an uninhabitable structure.
5. This ordinance clarifies the length of time a water permit that utilizes a Water Use Credit is valid.
6. This ordinance compiles all rules related to cancellation of permits into Rule 25.
7. This ordinance establishes processing fees for documenting Water Use Credits pursuant to Rule 25.5.
8. This ordinance shall revise, amend and republish Rules 23, 25, 25.5, 27 and 60 of the Rules and Regulations of the Water Management District.
9. No substantial evidence shows that this ordinance may have a significant effect on the environment, and therefore the Initial Study on this ordinance proposes that the ordinance shall be reviewed and approved under CEQA (California Environmental Quality Act) based upon a Negative Declaration.

NOW THEREFORE be it ordained as follows:

## ORDINANCE

### Section One:        Short Title

This ordinance shall be known as the MPWMD 2004 Water Use Credit Clarification Ordinance.

### Section Two:        Purpose

This ordinance amends the Rules and Regulations of the Monterey Peninsula Water Management District to clarify the use of Water Use Credits on a Site and relocates existing provisions of the Rules related to cancellation of permits from multiple rules to a single rule. The term "Site" is defined in the Rules as "any unit of land which qualifies as a parcel or lot under the Subdivision Map Act, and shall include all units of land: (1) which are contiguous to any other parcel (or are separated only by a road or easement), and (2) for which there is unity of ownership, and (3) which have an identical present use. The term 'Site' shall be given the same meaning as the term 'Parcel.'" This ordinance also establishes processing fees for inspection and/or verification and documentation of Water Use Credits.

### Section Three:        Amendment Of Rule 23 C: Criteria To Process Applications To Intensify Water Use

- A. The following Rule 23-C (7) shall be deleted from the District Rules and Regulations in its entirety and shall be added as Rule 25-D. Rule 23-C (7) shall be deleted as shown in ~~strikeout (strikethrough)~~:

~~7. Adjustment of Allocation for Abandoned or Revoked Permits.~~

- ~~1. Any permitted water capacity which is not used because of an abandoned, expired, revoked, or returned permit shall be returned to the Allocation applicable to that Jurisdiction (or the District Reserve) upon the expiration or revocation of that permit.~~
- ~~2. Issuance of a Water Use Credit pursuant to Rule 25 shall not result in any change to a Jurisdiction's Allocation. Use of any Water Use Credit shall similarly not cause a change to a Jurisdiction's Allocation.~~

- B. Rule 23-C (8) shall be renumbered as Rule 23-C (7).

### Section Four:        Deletion of Rule 27: Revocation of Permit

- A. The following Rule 27 shall be deleted in its entirety. The text of this rule shall be relocated and shall become Rule 25 C, Cancellation of Permits. Rule 27 shall be revised as shown in bold italics (***bold italics***) and ~~strikeout (strikethrough)~~:

~~The District Board may suspend or revoke any permit issued pursuant to these Rules and Regulations whenever it finds any of the following:~~

- ~~1. That any requirement or condition of the permit is not being met.~~
- ~~2. That the permittee has violated any provision of these Rules and Regulations.~~
- ~~3. That the permittee has misrepresented intentionally or negligently any material fact in this application, or in any supporting documents, for his permit.~~

**Section Five: Amendment of Rule 25.5: Water Credits**

- A. Rule 25.5 shall be revised as shown in bold italics (***bold italics***) and strikethrough (~~strikethrough~~):

**RULE 25.5 WATER USE CREDITS**

- A. Except where a permit has been canceled, returned or revoked under these Rules, a Person may receive a Water Use Credit for the permanent abandonment of some or all of the prior water use on that Site by one of the methods set forth in this Rule. A Water Use Credit shall enable the later use of that water on that same Site.
1. ***Prior to Abandonment of Use.*** A Person may apply to the District for a Water Use Credit in advance of the abandonment of capacity for water use, which that Person may cause on that Site. In such a circumstance, District staff (1) shall verify that the Reduction is one which is permanent, (2) shall quantify the capacity for water use which remains, (3) shall quantify the reduced water use (the abandoned capacity), (4) shall quantify the increment of reduction which exceeds the District's target of 15% conservation based upon the criteria used for the Water Allocation EIR, and (5) shall provide written confirmation of the Water Use Credit based upon the quantity set forth in element (4) above. Credit shall not be given for any reduction, which occurs by reason of a District mandated program (e.g. retrofit-on-resale). A Water Use Credit obtained pursuant to this method may be applied to, and shall allow future water use on that Site at any time within a period of 60 months. After the 60th month, renewal of this Water Use Credit shall be allowed only upon proof by the applicant that some or all water savings represented by that Credit are current. If all savings are not current, a pro-rata reduction shall occur. A single renewal period of 60 months shall be allowed; thereafter any remaining unused Water Use Credit shall expire. Water Use Credits shall not be transferable to any other Site ***pursuant to this Rule (see Rule 28).***

2. ***Following Abandonment of Use.*** A Person who has not applied in advance to the District for a Water Use Credit (in advance of the abandonment of the capacity for water use) may still request that a Credit be given based on prior reductions in water use capacity which occurred on that Site within the preceding eighteen (18) months. In such a circumstance the applicant shall have the burden to quantify and verify both the reduction of water use capacity, and the date such reduction occurred. District staff shall determine the increment of reduction which exceeds the District's target of 15% conservation as set forth in the Allocation EIR and shall determine the effective date for that reduction in capacity for water use. Credit shall not be given for any reduction, which occurs by reason of a District mandated program (e.g. retrofit-on-resale); credit shall not be given for any reduction which was completed more than eighteen (18) months prior to the date of the application for the Water Use Credit. The quantity of water determined by staff to be available for a Water Use Credit under this method, once the Water Use Credit has been granted, may be applied to, and shall allow future water use on that Site within thirty (30) months from the date the reduction first occurred, and upon proof by the applicant that those water savings are still current. After the 30th month, renewal of this Water Use Credit shall be allowed only upon proof by the applicant that some or all water savings represented by that Credit are current. If all savings are not current, a pro-rata reduction shall occur. A single renewal period of thirty (30) months shall be allowed; thereafter any remaining Water Use Credit shall expire. Water Use Credits shall not be transferable to any other Site *pursuant to this Rule (see Rule 28)*. Residential Water Use Credits shall not be transferable to any other Site.
- B. The District shall send acknowledgement of a Water Use Credit to the property owner following inspection and/or verification of a Water Use Credit. This acknowledgement shall specify the quantity of Water Use Credits available and the length of time the credit is available for reuse on a Site.***
- C. A Water Use Credit shall provide the basis for issuance of a permit for an Intensified Water Use on that Site provided (1) the credit is current (has not expired), and (2) provided the abandoned capacity (saved water) forming the basis for the Water Use Credit is determined not yet to have been reused on that Site based on water use records, water permit records, or other evidence of water use.***
- D. In order for a water permit to be issued based, in whole or in part, upon an existing Water Use Credit, MPWMD staff shall debit the credit in the same manner and amount as water use factors set forth in Rule 24, Table 1 or Table 2, as then-applicable at the time a complete water permit application to utilize the Water Use Credit is received. Fixture Unit Values set forth in the then-current version of Table 1 or Table 2 shall prevail over any previous table, and***



*shall be used in lieu of any other water use quantification that may relate to the documented Water Use Credit.*

*E. There shall be no connection charge assessed for the capacity for water used pursuant to any Water Use Credit. Connection charges, however, shall apply to the capacity for water use, which exceeds the Water Use Credit, or for any expansion of use following the expiration of the Water Use Credit. No refund shall accrue by reason of water use reduction, or abandonment of capacity, whether or not reflected by a Water Use Credit. Issuance of a Water Use Credit shall not result in any change to a Jurisdiction's Allocation. Use of any Water Use Credit shall similarly not cause a change to a Jurisdiction's Allocation.*

*F. When a Water Use Credit on a Site results from demolition of a building that straddled a lot line, the property owner shall specify in writing the quantity of water credit assigned to each of the lots formerly occupied by that building. This designation shall be recorded upon the title of each of the lots. The aggregate of all credits assigned shall not exceed the total amount of water calculated to be available for use by the District prior to demolition.*

*G. A Water Use Credit shall enable reuse of saved water on the Site.*

- 1. Water Use Credits may be moved between one or more structures on the same Site.*
- 2. When Water Use Credits are used to create a new User, the Site must have been under the current ownership for at least twenty-four (24) months.*
- 3. The District shall not exact a separate calculation for exterior water usage on a vacant lot or lot containing an uninhabitable structure when the owner of the Site has submitted clear and convincing evidence of landscaping and irrigation that has been consistently maintained since March 1, 1985.*

**Section Six: Amendment of Rule 25: Cancellation of Applications**

Rule 25, Cancellation of Applications, shall be revised as shown in bold italics (*bold italics*) and strikeout (~~strikethrough~~).

**RULE 25 CANCELLATION OF APPLICATIONS PERMITS**

- A. All permits issued pursuant to these regulations which are not completed (completion is defined by Rule 11) shall expire upon the date specified by each jurisdiction as shown on the permit. For any permit that does not bear a cancellation date, that permit, to the extent it has not been completed by the installation of a water meter, or

to the extent permitted fixtures have not been installed, shall expire one (1) year following the date of issuance. Persons possessing a current and valid Water Release Form whose permits have expired or have been canceled may re-apply for a new permit pursuant to Rule 20. The District shall not accept any Water Release Form after the date specified by any jurisdiction. A Water Release Form will be required for all permit applications, or requests for extension of a permit. The District, however, shall not extend a permit for any Site on which a permit violation has been noticed, but has not been corrected.

- B. All permits reliant in whole or part on a Water Use Credit shall expire twenty-four (24) months following the date of issuance. Persons possessing a current and valid Water Release Form whose permits have expired may re-apply for a new permit pursuant to Rule 23.*
- C. The District Board may suspend or revoke any permit issued pursuant to these Rules and Regulations whenever it finds any of the following:*
  - 1. That any requirement or condition of the permit is not being met.*
  - 2. That the property owner and/or occupant has violated any provision of these Rules and Regulations.*
  - 3. That the property owner or his agent has misrepresented intentionally or negligently any material fact in this the application, or in any supporting documents, for his permit.*
- D. Any permitted water capacity which is not used because of an abandoned, expired, revoked, or returned permit shall be returned to the Allocation applicable to that Jurisdiction (or the District Reserve) upon the expiration or revocation of that permit.*
- E. Issuance of a Water Use Credit pursuant to Rule 25.5 shall not result in any change to a Jurisdiction's Allocation. Use of any Water Use Credit shall similarly not cause a change to a Jurisdiction's Allocation.*
- F. Refunds of connection charges paid for permits cancelled pursuant to Rule 25 shall be issued according to Rule 24-H, Connection Charge Refunds.*

**Section Seven: Amendment of Rule 60, Permit Fees**

- A. Rule 60, Permit Fees, states, "Every applicant shall pay such non-refundable (unless otherwise stated) administrative processing fees at time of application as follows in accordance with written Implementation Guidelines:"
- B. Rule 60-G shall be revised by adding the text of Rule 60-I, as shown in bold italics (*bold italics*).

G. *Final Review at First Use or Occupancy.*

1. Processing and Plan Check fee for the recalculation of final connection fees pursuant to Rule 24 B: \$70.00 per hour of staff time for all necessary efforts in excess of five (5) hours per Site requiring recalculation.
2. *Administrative fee to review and process applications for fixtures added without proper permit: \$50 per unpermitted fixture.*

C. The text of Rule 60-I should be replaced in its entirety with the following text shown in bold italics (*bold italics*):

I. *Administrative fee for each application to document a Water Use Credit pursuant to Rule 25.5*

1. *Water Use Credit for residential installation of Qualifying Devices as defined in Rule 11: \$150*

2. *All other applications for Water Use Credit:*

a. *Residential Water Use Credit, including inspection and/or verification of demolition: \$250*

b. *Commercial Water Use Credit*

(1) *Inspection and/or verification of demolition: \$250*

(2) *Inspection and/or verification of retrofit: \$1,120 for up to sixteen (16) hours of staff time*

(3) *Unusually complex applications (those applications that exceed 16 hours to process): \$70.00 per hour*

(4) *Consultant fees to be paid by applicant at a rate to be determined when independent consultation is required to verify and/or quantify water savings.*

**Section Eight:**      **Publication and Application**

The provisions of this ordinance shall cause the republication and amendment of the permanent Rules and Regulations of the Monterey Peninsula Water Management District.

**Section Nine:**      **Effective Date and Sunset**

This ordinance shall take effect at 12:01 a.m. on July 1, 2004.

This Ordinance shall not have a sunset date.

**Section Ten:**            **Severability**

If any subdivision, paragraph, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions of this ordinance, or of any other provisions of the Monterey Peninsula Water Management District Rules and Regulations. It is the District's express intent that each remaining portion would have been adopted irrespective of the fact that one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable.

On motion by Director \_\_\_\_\_, and second by Director \_\_\_\_\_, the foregoing ordinance is adopted upon this \_\_\_\_ day of \_\_\_\_\_ 2004, by the following vote:

AYES:

NAYS:

ABSENT:

I, Fran Farina, Secretary to the Board of Directors of the Monterey Peninsula Water Management District, hereby certify the foregoing is a full, true and correct copy of an ordinance duly adopted on the \_\_\_\_ day of \_\_\_\_\_ 2004.

Witness my hand and seal of the Board of Directors this \_\_\_\_\_ day of \_\_\_\_\_ 2004.

\_\_\_\_\_  
Fran Farina, Secretary to the Board